

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

CUNG LE; NATHAN QUARRY, JON)
FITCH, on behalf of)
themselves and all others)
similarly situated,)

Plaintiffs,)

vs.)

Case No.
2:15-cv-01045-RFB-(PAL)

ZUFFA, LLC, d/b/a Ultimate)
Fighting Championship and)
UFC,)

Defendant.)
_____)

VIDEOTAPE DEPOSITION OF JOSEPH SILVA

Richmond, Virginia

June 7, 2017

8:11 a.m.

Reported by:
KIMBERLY L. RIBARIC, RPR, CCR
JOB NO. 50374

<p style="text-align: right;">370</p> <p>1 SILVA</p> <p>2 correct, I would not want to hurt my credibility by</p> <p>3 acting like what they have in black and white is not</p> <p>4 true.</p> <p>5 Q. So if you -- if they brought to you like</p> <p>6 what you have described as an outlier, where some</p> <p>7 fighter may have diverted from what you thought they</p> <p>8 should have gotten based on their background and</p> <p>9 their skill level, you'd -- you'd certainly --</p> <p>10 sometimes you would hear it from the fighters or</p> <p>11 their representatives about that outlier; right?</p> <p>12 A. Yes.</p> <p>13 Q. And if, by creating that outlier, that</p> <p>14 sometimes causes other fight -- you have to then</p> <p>15 raise the compensation then of some other fighters</p> <p>16 because you made that one mistake; is that right?</p> <p>17 A. Well -- well, you'd have to -- one, I don't</p> <p>18 know I'd say it was a mistake. And it's -- it's a</p> <p>19 matter of opinion. And that I did deals, Sean did</p> <p>20 deals, Dana did deals, Lorenzo did deals, and</p> <p>21 everybody's judgment is different. So you have to</p> <p>22 weigh those in. So that's all people who are getting</p> <p>23 deals in the UFC.</p> <p>24 But a manager's job is to negotiate the best</p> <p>25 deal that they can. And my job is to try to</p>	<p style="text-align: right;">372</p> <p>1 SILVA</p> <p>2 You said 16, I asked for 18. Could you agree to 17?"</p> <p>3 He says that towards the bottom.</p> <p>4 A. Uh-huh.</p> <p>5 Q. And then you say on December 9, 2010: "Not</p> <p>6 trying to be a dick but no. Everyone knows what</p> <p>7 everyone makes. Our purses are public. I have to</p> <p>8 justify everyone's pay to everyone else."</p> <p>9 Do you see that?</p> <p>10 A. Yes.</p> <p>11 Q. What did you mean by that, "I have to</p> <p>12 justify everyone's pay to everyone else"?</p> <p>13 A. I feel it was important in my job to</p> <p>14 actually engage with people and not just dictate to</p> <p>15 them. So if somebody was going to say, what about</p> <p>16 this guy, I would have to engage that and not go, too</p> <p>17 bad.</p> <p>18 Q. Right.</p> <p>19 A. I'd have to go, okay, you've got a point,</p> <p>20 let's try and figure this out. So, yeah, I'm just</p> <p>21 making him aware of that.</p> <p>22 Q. Right. And so you wanted to make sure that</p> <p>23 you did your best to try to make sure that comparable</p> <p>24 fighters with comparable records are getting paid</p> <p>25 comparable amounts; is that fair?</p>
<p style="text-align: right;">371</p> <p>1 SILVA</p> <p>2 negotiate a deal that I thought was fair.</p> <p>3 Q. So if -- if, for example, Shelby had been --</p> <p>4 had been systematically kind of paying fighters a bit</p> <p>5 more than you did or Dana was systematically paying</p> <p>6 comparable fighters a little bit more than you did,</p> <p>7 you then might feel pressure then to kind of pay</p> <p>8 fighters more because you would be hearing from reps</p> <p>9 about comparables from Dana or Shelby; is that right?</p> <p>10 A. I'm sure it would be brought up.</p> <p>11 Q. So if -- if there are some -- if one of the</p> <p>12 three of you are kind of raising the level per</p> <p>13 equivalent fighter, that's going to put pressure on</p> <p>14 that third person to kind of raise as well?</p> <p>15 A. I don't think it's pressure in that me and</p> <p>16 Sean did the vast majority of deals, and me and Sean</p> <p>17 were in constant communication every day and knew</p> <p>18 what each other were doing. So it's not like I was</p> <p>19 going, Sean, what are you doing here? We knew. But</p> <p>20 we would still, on our own, choose to, let's move</p> <p>21 people up, we feel like it's time to do it.</p> <p>22 So Dana and Lorenzo did do deals, but they</p> <p>23 did, like I said, maybe 10, 15 percent of deals.</p> <p>24 Q. Yeah, if you turn to the first page of this</p> <p>25 document, Bean says: "Can you meet me in the middle?</p>	<p style="text-align: right;">373</p> <p>1 SILVA</p> <p>2 MR. ISAACSON: Objection. Form.</p> <p>3 A. Yeah, that was my goal.</p> <p>4 Q. And one of the reasons why you did that is</p> <p>5 because you had to justify everyone's pay to everyone</p> <p>6 else, and if you -- if you were doing this poorly or</p> <p>7 inefficiently, you'd constantly have fighters</p> <p>8 demanding more money, they'd say, hey, wait, you paid</p> <p>9 this guy this much and that guy that much, and you</p> <p>10 wouldn't be able to justify to them if -- if you</p> <p>11 hadn't been doing this well; is that right?</p> <p>12 A. It would just seem unfair to give somebody</p> <p>13 something that somebody else, equally deserving,</p> <p>14 didn't get.</p> <p>15 Q. And you attempted, at least in your mind, to</p> <p>16 be fair, to impose a sense of equity between the</p> <p>17 different fighters; correct?</p> <p>18 A. I did.</p> <p>19 Q. All right. You can put that document aside.</p> <p>20 MR. CRAMER: Like to mark the next</p> <p>21 document as Silva Exhibit 38.</p> <p>22 (Silva Deposition Exhibit 38 marked for</p> <p>23 identification.)</p> <p>24 Q. Silva 38 is a series of e-mails bearing the</p> <p>25 Bates range ZFL-2641095 through 1099. The one at the</p>

<p style="text-align: right;">434</p> <p>1 SILVA</p> <p>2 Q. Okay. Certain fighters received a share of</p> <p>3 Pay-Per-View revenues when they defend -- when</p> <p>4 they -- I'm sorry.</p> <p>5 Certain fighters received a share of</p> <p>6 Pay-Per-View revenues; correct?</p> <p>7 A. Correct.</p> <p>8 Q. Who was offered at Zuffa a share of</p> <p>9 Pay-Per-View revenues?</p> <p>10 A. That would be up to Dana and Lorenzo who</p> <p>11 they're willing to give a share of Pay-Per-View</p> <p>12 revenues to.</p> <p>13 Q. Is it fair to say that only champions</p> <p>14 defending their title were given a share of</p> <p>15 Pay-Per-View revenues at the UFC?</p> <p>16 A. No.</p> <p>17 Q. There were others?</p> <p>18 A. There were others. I think if you would</p> <p>19 become a -- a big attraction even without a title,</p> <p>20 you could still be worthy of Pay-Per-View, but it was</p> <p>21 rarer.</p> <p>22 Q. It was rare.</p> <p>23 Most of the times that fighters were offered</p> <p>24 a share of the Pay-Per-View revenues, they were</p> <p>25 defending a title; correct?</p>	<p style="text-align: right;">436</p> <p>1 SILVA</p> <p>2 Q. And was that -- that's just for her or that</p> <p>3 was -- that was not a general policy?</p> <p>4 A. I think most of them were that way, is that</p> <p>5 you needed to be a -- a champion defending your belt</p> <p>6 to get it. Not -- there were some exceptions, but</p> <p>7 for the majority.</p> <p>8 Q. Okay. You can put that aside.</p> <p>9 Is it fair to say that fighters frequently</p> <p>10 asked for Pay-Per-View cuts in compensation</p> <p>11 negotiations?</p> <p>12 A. Some do. There's actually quite a few</p> <p>13 fighters who did not care about that because they</p> <p>14 felt that they were not marketable enough that it was</p> <p>15 not enticing to them because they weren't really</p> <p>16 convinced they were going to sell a bunch of</p> <p>17 Pay-Per-Views.</p> <p>18 If you were somebody who -- who had a</p> <p>19 demonstrable popularity, then you feel, it's like</p> <p>20 this is going to be a windfall for me, I will sell a</p> <p>21 bunch of Pay-Per-Views. Not everybody felt they</p> <p>22 would. Some kind of saw themselves as more</p> <p>23 workmanlike, it's like, look, I put in my time and I</p> <p>24 work hard and this and that, I'm not a fan favorite,</p> <p>25 who cares.</p>
<p style="text-align: right;">435</p> <p>1 SILVA</p> <p>2 A. I'd say most, yes.</p> <p>3 MR. CRAMER: I'd like to mark as Silva</p> <p>4 Exhibit 48 the next document.</p> <p>5 (Silva Deposition Exhibit 48 marked for</p> <p>6 identification.)</p> <p>7 Q. This is an e-mail from Shelby to White and</p> <p>8 Mr. Silva -- I'm sorry. It's just an e-mail from</p> <p>9 Fertitta, Lorenzo Fertitta, to Shelby, cc'd to White</p> <p>10 and Silva --</p> <p>11 A. Uh-huh.</p> <p>12 Q. -- dated Thursday, March 13, 2014. The</p> <p>13 subject is Holly Holm, and it bears the Bates number</p> <p>14 ZFL-1005485.</p> <p>15 At the top Mr. Fertitta says: "We can get</p> <p>16 something done. For ppv bonus she must be</p> <p>17 defending."</p> <p>18 PPV bonus refers to Pay-Per-View bonus?</p> <p>19 A. Yes.</p> <p>20 Q. And was Mr. Fertitta correct that in order</p> <p>21 for Holly Holm to get a Pay-Per-View bonus, she had</p> <p>22 to be defending a title?</p> <p>23 A. He was saying that he was not willing to</p> <p>24 give her Pay-Per-View if she's not a champion</p> <p>25 defending her title.</p>	<p style="text-align: right;">437</p> <p>1 SILVA</p> <p>2 Q. Okay. So I think I asked you briefly about</p> <p>3 this, but Zuffa also paid other kinds of</p> <p>4 discretionary bonuses?</p> <p>5 A. Correct.</p> <p>6 Q. In addition to win and show; correct?</p> <p>7 A. Correct.</p> <p>8 Q. Okay. And by "discretionary," the -- these</p> <p>9 other bonuses that I'm going to ask you about, other</p> <p>10 than win and show, and potentially Pay-Per-View, they</p> <p>11 were not contractually required to pay structured or</p> <p>12 discretionary bonuses; correct?</p> <p>13 A. Correct.</p> <p>14 Q. All right. How were the -- how were these</p> <p>15 structured or discretionary bonuses determined?</p> <p>16 A. And you're not talking about like the</p> <p>17 end-of-the-night bonuses, you're talking about just</p> <p>18 like up and down -- because we had -- for every show</p> <p>19 you had, like, say \$50,000 bonus for performances of</p> <p>20 the night, for fight of the night, that both would</p> <p>21 get it, so that was standard on every show.</p> <p>22 Q. So every --</p> <p>23 A. So that was one kind of bonus.</p> <p>24 Q. So one kind of bonus is a fight-of-the-night</p> <p>25 bonus?</p>